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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,924	10/28/2003	Anthony Zuclich	AZIN-1-1001	7007

7590 06/30/2005

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EXAMINER

THOMPSON, HUGH B

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/695,924	Applicant(s) ZUCLICH ET AL.	
	Examiner Hugh B. Thompson II	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☒ Claim(s) 2, 11-13, 19-21, 24-27, 29, 31, 39-41, 45-47, 49-52, 54, 58, 63, 66, 68 and 72-75 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claim 30, there is no antecedent basis for "the lateral support".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 5-10, 14-18, 22, 23, 28, 30, 32, 34-38, 42-44, 48, and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Sander #6,443,319. Sander discloses a shelf system comprised of floor or ceiling mounted base 9, multiple section vertical supports 2, 7, 8, which are attachable to parallel component/support members 5, which in-turn are attached to multiple spaced lateral members/platforms 3 by screws 12, the support members being located on surfaces 10, 11 of the lateral members.

Claims 1, 3, 4, 28, 30, 32, 33, 35-38, 53, 55-57, 59-62, 64, 65, 67, 69, and 70 are rejected under 35 U.S.C. 102(b) as being anticipated by Tyski #6,516,958. Tyski discloses a shelf system and method of supporting elements, comprised of floor mounted base 31, vertical supports 19, 20, which are attachable to multiple movable parallel component/support members 25, through

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multiple spaced lateral members/platforms 21, 22, which are in-turn secured to the vertical supports by fasteners (unnumbered), and a base securing mass, as recited in column 2, lines 55-58.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tyski as applied to claims 1, 3, 4, 28, 30, 32, 33, 35-38, 53, 55-57, 59-62, 64, 65, 67, 69, and 70, above, and further in view of Sander as advanced above. Tyski fails to disclose vertical supports having multiple sections. Sander teaches the utility of vertical supports for a shelf system having multiple sections that allow for height adjustment of the shelving unit. Therefore, to one of ordinary skill in the art, it would have been obvious to provide the vertical supports of Tyski with multiple sections as taught by Sander, so as to provide height adjustment of the shelving unit.

Allowable Subject Matter

Claims 2, 11-13, 19-21, 24-27, 29, 31, 39-41, 45-47, 49-52, 54, 58, 63, 66, 68, and 72-75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The primary reason for the allowable subject matter of claims 2 and 31, is the inclusion of the base having a recess that receives an inset panel of a different material than the

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base. For claims 11, 19, 39, 45, 63, and 68, it is the inclusion of the lateral member secured to the vertical supports by a gravity-secured mechanism. For claims 29 and 54, it is the inclusion of a lateral brace coupled to the vertical support members at a distance removed from the base along the first direction. For claim 58, it is the inclusion of the vertical support extending downwardly from an overhead element. For claim 66, it is the inclusion of the support members secured to the lateral member by fasteners. For claims 24, 49, and 72, it is the inclusion of the vertical supports having a non-linear shape. The prior art of record fails to teach or suggest the claimed features absent the applicant's own disclosure.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Doherty #3,221,678, Metcalf #5,347,922, Freeland #5,542,530, Hull #5,794,794, Merkel #RE38,707, Culp #6,845,871, Culp #6,615,999, Wang #6,595,378, Kreuzer #6,216,891, Kurtzman #6,202,570, and Miller #5,833,083 are cited to teach shelving assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh B. Thompson II whose telephone number is (571) 272-6837. The examiner can normally be reached on Monday thru Friday 9 am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Hugh B. Thompson II
Primary Examiner
Art Unit 3634

June 24, 2005